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Congress of the United States

U.S. House of Representatives

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The Honorable Steven Mnuchin
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

The Honorable Neomi Rao
Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget
725 17th Street, NW
Washington, D.C. 20503

The Honorable Mick Mulvaney
Director
Office of Management and Budget
725 17th Street, NW
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The Honorable Kevin McAleenan
Commissioner
U.S. Customs and Border Protection
1300 Pennsylvania Avenue, NW
Washington, D.C. 20229

Dear Secretary Mnuchin, Director Mulvaney, Administrator Rao, and Commissioner McAleenan:

We write to insist that regulations implementing the duty drawback provisions of the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA) are finalized and published in the Federal Register without further delay. TFTEA required these regulations to be promulgated by February 24, 2018. To date, the agencies have failed to meet this statutory mandate.

On June 29, 2018, the Court of International Trade issued an opinion in the case of *Tabacos de Wilson v. United States*, in which several brokers and importers challenged CBP's refusal to grant accelerated payment privileges for drawback claims until the regulatory package containing the new drawback calculation method is final. In its opinion, the Court was unequivocal that the agencies' failure to promulgate the implementing regulations by February 24, 2018 "exceeded a legislative deadline" and violates the law. The Court also stated that if the agencies are unable to issue the regulations by July 5, 2018, then they should consider issuing those portions that satisfy the requirements of TFTEA in advance of any other portions that remain unresolved.

We agree with the Court that the collective failure by the agencies to meet their statutory requirements is unacceptable. We are adamant that the agencies finalize and publish the TFTEA regulations without further delay. We are particularly concerned that non-compliance has greatly complicated drawback claims, particularly given CBP's refusal to grant accelerated payment until

the regulatory package is final. Accordingly, we agree with the Court that the agencies should issue those portions of the regulations that would bring them into compliance with the TFTEA mandate and that it should do so through an Interim Final Rule so that U.S. manufacturers can fully utilize the duty drawback program without further delay, as intended by Congress.

Sincerely,



KEVIN BRADY

Chairman

Committee on Ways & Means



DAVE REICHERT

Chairman

Subcommittee on Trade